

PAPERWORK REDUCTION ACT SUBMISSION

Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

1. Agency/Subagency originating request	2. OMB control number b. <input type="checkbox"/> None a. _____ - _____
3. Type of information collection (<i>check one</i>) a. <input type="checkbox"/> New Collection b. <input type="checkbox"/> Revision of a currently approved collection c. <input type="checkbox"/> Extension of a currently approved collection d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired f. <input type="checkbox"/> Existing collection in use without an OMB control number For b-f, note Item A2 of Supporting Statement instructions	4. Type of review requested (<i>check one</i>) a. <input type="checkbox"/> Regular submission b. <input type="checkbox"/> Emergency - Approval requested by _____ / _____ / _____ c. <input type="checkbox"/> Delegated
	5. Small entities Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> Yes <input type="checkbox"/> No
	6. Requested expiration date a. <input type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other Specify: _____ / _____
7. Title	
8. Agency form number(s) (<i>if applicable</i>)	
9. Keywords	
10. Abstract	
11. Affected public (<i>Mark primary with "P" and all others that apply with "x"</i>) a. <input type="checkbox"/> Individuals or households d. <input type="checkbox"/> Farms b. <input type="checkbox"/> Business or other for-profit e. <input type="checkbox"/> Federal Government c. <input type="checkbox"/> Not-for-profit institutions f. <input type="checkbox"/> State, Local or Tribal Government	12. Obligation to respond (<i>check one</i>) a. <input type="checkbox"/> Voluntary b. <input type="checkbox"/> Required to obtain or retain benefits c. <input type="checkbox"/> Mandatory
13. Annual recordkeeping and reporting burden a. Number of respondents _____ b. Total annual responses _____ 1. Percentage of these responses collected electronically _____ % c. Total annual hours requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____	14. Annual reporting and recordkeeping cost burden (<i>in thousands of dollars</i>) a. Total annualized capital/startup costs _____ b. Total annual costs (O&M) _____ c. Total annualized cost requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____
15. Purpose of information collection (<i>Mark primary with "P" and all others that apply with "X"</i>) a. <input type="checkbox"/> Application for benefits e. <input type="checkbox"/> Program planning or management b. <input type="checkbox"/> Program evaluation f. <input type="checkbox"/> Research c. <input type="checkbox"/> General purpose statistics g. <input type="checkbox"/> Regulatory or compliance d. <input type="checkbox"/> Audit	16. Frequency of recordkeeping or reporting (<i>check all that apply</i>) a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure c. <input type="checkbox"/> Reporting 1. <input type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly 4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually 7. <input type="checkbox"/> Biennially 8. <input type="checkbox"/> Other (describe) _____
17. Statistical methods Does this information collection employ statistical methods <input type="checkbox"/> Yes <input type="checkbox"/> No	18. Agency Contact (person who can best answer questions regarding the content of this submission) Name: _____ Phone: _____

19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

NOTE: The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention period for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
 - (i) Why the information is being collected;
 - (ii) Use of information;
 - (iii) Burden estimate;
 - (iv) Nature of response (voluntary, required for a benefit, mandatory);
 - (v) Nature and extent of confidentiality; and
 - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee

Date

Agency Certification (signature of Assistant Administrator or head of MB staff for L.O.s, or of the Director of a Program or Staff Office)	
Signature	Date
Signature of NOAA Clearance Officer	
Signature	Date

Supporting Statement

Section A. Justification

1. The Coastal Zone Management Act (CZMA) creates a State-Federal partnership to improve the management of the nation's coastal zone through the development of State coastal management plans (CMPs). The CZMA provides two incentives for States to develop CMPs: 1) NOAA is appropriated monies to grant to State's to develop and implement State CMPs that meet the statutory criteria; and 2) the CZMA requires federal activities and federal licensees and recipients of federal assistance to conduct their activities in a manner "consistent" with NOAA approved CMPs. The latter incentive, referred to as the "Federal consistency" provision, is found at 16 USC § 1456. These regulations implement NOAA's responsibilities to provide procedures for the consistency provision, the procedures available for an appeal of a State's objection to a consistency certification as provided for in 16 USC § 1456, and changes in the appeal process created by Congressional amendments in 1990 and 1996 and found at 16 USC § 1465.

The existing regulations providing procedures for a State to implement the consistency provision and for appeals and mediation resulting from its exercise have been in place since 1979. In addition to providing regulatory procedures for the amendments to the statute in the 1990s, NOAA hopes to clarify and streamline the procedures for all parties. In particular, the procedures for appeals of consistency determinations no longer reflect actual practices and the proposed regulations make current practices explicit and easier for the relevant appellants to follow.

Congress emphasized the importance of the consistency provisions in the amendments in the CZMA amendments of 1990 and specifically endorsed long-standing requirements of the CZMA consistency regulations. NOAA's intent is to clarify certain sections, provide additional guidance where needed, and provide States and Federal agencies with greater flexibility for Federal-State coordination and cooperation. Thus proposed 15 CFR part 930 remains largely the same as it has been since 1979 with changes necessary for clarification, streamlining and to reflect recent Congressional amendments. Paperwork and information occur largely outside of NOAA by State and Federal agencies engaged in licensing and permitting activities affecting coastal resources, Federal agencies taking actions affecting State coastal zones, and by Federal agencies providing federal assistance to State and local governments in coastal zone. In each of these cases, information is collected by the entity making the license, permit, assistance or action decision and NOAA's regulations provide for the use of that information already required by the State or Federal entity in the consistency process. Pursuant to 16 USC § 1456, NOAA's regulations require the appropriate entity, Federal agency or applicant for license or permit, to prepare a consistency determination or certification. This information is provided to the relevant State CMP, not to NOAA. Information is provided to NOAA only when there is a State objection to a consistency determination or certification, when informal mediation is sought by a Federal agency or State, or when an applicant for a federal license or permit appeals to the Secretary of Commerce for an override to a State CMPs objection to a consistency certification. Lastly, in 1990, Congress required State CMPs to provide for public participation in their permitting processes, consistency determinations and similar decisions, 16 USC § 1455(d)(14), and these regulations implement that new requirement.

2. Purpose and Use of the Information Collected

Because these proposed rules provide procedures for a variety of activities taken by State and Federal agencies and private entities as applicants for federal permits, it is easiest to review the use of information collected by categories.

A. Consistency determinations/certifications and State objections/concurrences

- 930.4(a) This new regulation provides a procedure for a previously haphazard practice of State CMPs seeking to impose conditions on Federal agencies or federal permittees without actually objecting to the consistency certification and triggering an appeal. The objective of the requirement is to ensure clarity between the State, Federal agency, and if relevant an applicant as to the specific nature of the State's concern and the Federal agency's or applicant's opportunity to respond to it. The regulation also provides a method for the enforcement of conditions that are agreed to between State CMPs and applicants and/or Federal agencies. NOAA believes the increased specificity will result in minimizing the use of this provision and greater certainty among the parties when it is used.
- 930.35(c) This paragraph provides for procedures for Federal agencies to determine that there are no effects to a State coastal zone related to a proposed federal activity and provides the time periods for the issuance of such a "negative" determination by a Federal agency. If a State CMP wishes to have additional time in which to consider whether to object to the Federal agency's negative determination, this regulation requires the State to request such an extension of time by one paragraph letter.
- 930.34(d) This paragraph is intended to improve clarity by providing that States make copies of the federally approved State CMPS available for public inspection. In addition, to provide clarity for the benefit of the public and Federal agencies, States are asked to identify those enforceable policies of the State CMP applicable to a federal activity or applicant's project. There is no defined format for the identification and it may occur in any manner deemed appropriate by the State including telephone conversation, letter, fax, or email.
- 930.42(c) This provision is responsive to the 1990 amendments in which Congress required States to ensure public participation in review of consistency decisions. The contents of the public notice are set forth to provide uniformity in basic information provided by the State to the public about the consistency determinations.
- 930.43 This regulation is provides the basic foundation for a State to exercise consistency authority to object to a federal action affecting State coastal resources or the

consistency certification. Because this document is a Statement of the State's formal findings pursuant to the State CMP's enforceable policies in conformance with 16 USC § 1456(c)(1), it must contain certain elements to which the Federal agency can respond. This information is supplied to NOAA for use in its subsequent evaluations of State CMPs pursuant to section 312 of the CZMA and allow NOAA, when appropriate, to use its mediation offices to encourage settlement of disagreements between State CMPs and Federal agencies.

- 930.58 This provision is the basic foundation of the implementation of 16 USC § 1456(c)(3) where an applicant for a federal license or permit is required to ensure that its proposed project is consistent with the enforceable policies of the State CMP. This information is provided by the applicant to the State and is the basis for State's decision that the project is or is not consistent with the State CMP.
- 930.60(a) This provision allows for the consolidation of information relevant to multiple permits so that efficiency in the consistency process can be achieved. Consolidation is for the benefit of the permit applicant and does not prejudice the findings of consistency with State CMPs.
- 930.62 A State agrees with a federal permit applicant's consistency certification in one of two ways; 1) by letter stating its specific findings that the project is consistent with the State CMP or 2) by the lapse of time after which the State is presumed to have concurred. This information is critical to all parties in the federal permitting process. Without the State's concurrence the Federal agency cannot issue the requested permit. The concurrence letter is also the closing administrative document of the CZMA process and provides the rational basis for the State's action under the CZMA as well as its own State authorities.
- 930.63 Likewise, a State's objection to an applicant's consistency certification is its basis for rejecting the consistency findings of the applicant and may form the basis of the applicant's subsequent appeal to the Secretary of Commerce. This document is critical to the consistency process as it informs the applicant, the Federal agency and public of the enforceable policies with which the applicant is not consistent as well as the effects of the project on coastal resources to which the State objects. The objection letter may or may not contain substantial technical information upon which the State CMP's decision was based. In addition, the proposed regulation requires the State to be clear as to the nature of its objection and provide some basis for any alternative the State believes would be consistent with the State CMP.
- 930.75 This requirement is just a restatement of the requirement of State CMPs to provide information and copies of their enforceable policies to the affected members of the public and Federal agencies, in this case entities intending to develop mineral

resources on the outer continental shelf (OCS) for which specific provision is made in 16 USC § 1456(c)(3)(B).

- 930.76 This request is a restatement of the need for a consistency certification for applicants for federal licenses and permits to engage in certain activities on the OCS. These documents provide the foundation of the consistency process for OCS applicants.
- 930.78 The concurrence documents the State's agreement that the proposed activities on the OCS are consistent with the State CMP. Without this concurrence document the Federal agency cannot issue the federal license or permit to the OCS applicant.
- 930.94 This proposed rule provides a parallel process for State CMP review of federal assistance to State and local agencies. This procedure implement 16 USC § 1456(d) and parallels the other consistency procedures.

B. Unlisted activities and outside coastal zone notifications by States

- 930.34(c) Federal agencies are required to notify State CMPs of proposed Federal agency activities that are listed in the State CMP's program document. If the proposed Federal agency activity is not listed, the Federal agency does not otherwise notify the State, and the State wants to review the activity, then this section provides the authority for the State to notify the Federal agency and for the Federal agency to respond. Since there is an affirmative duty on the part of Federal agencies to notify States of proposed activities that have coastal effects, there are few such State notifications needed.
- 930.54(a)(1) and (b) State CMPs are required to list federal license or permit activities that are subject to a State's federal consistency review. If a federal license or permit activity is not listed, and the State believes that the activity will have coastal effects, the State must notify the applicant, the approving Federal agency and OCRM of its intent to review the activity and request OCRM approval for the review. OCRM approval is required to ensure that an unlisted activity should be subject to the CZMA federal consistency provision by finding whether the proposed activity can be reasonably expected to affect coastal uses or resources. This section affords States the possibility of reviewing the unlisted activity. The CZMA requires that all federal license or permit activities that affect a State's coastal uses or resources are subject to consistency. Given the potentially large number of affected federal approvals, State CMPs are required to list in their CMP Program Documents those federal license or permit activities that are likely to affect coastal uses or resources. The listing/unlisted procedures provide applicants and Federal agencies with notice and predictability of the federal approvals which are subject to the consistency requirement and about which the State is most concerned. NOAA usually receives

less than five, and often only one or two, unlisted activity requests each year for all 33 coastal States.

- 930.54(a)(2) This is a new section that encourages applicants for unlisted federal license or permits for activities that might affect a State's coastal uses or resources to notify the State to give the State the opportunity to decide whether to review the activity. By coordinating early with the State, this section will help to reduce conflicts between States and applicants for unlisted federal approvals.
- 930.98(a) This section requires States to notify applicant agencies (State agencies or local governments applying for federal financial assistance) for activities that the State wants to review for consistency that are located outside of the State's coastal zone. The purposes for this section are the same as that provided above for listed/unlisted activities: providing applicant agencies and Federal agencies with notice and predictability of the federal approvals which are subject to the consistency requirement and about which the State is most concerned.

C. Public notice requirements for States and applicants

- 930.42(a), (b) This is a statutory requirement which is being added to the regulations. It requires States to provide for public notice and comment on the State's review of a Federal agency's consistency determination. Most States have approved public participation procedures for this section. OCRM previously provided guidance on how States can meet this requirement. See 59 Fed. Reg. 30339.
- 930.61 This is an existing statutory requirement for States to ensure that the public has an opportunity to comment on an applicant's consistency certification for the applicant's federal license or permit application. For subpart D, unlike the public participation requirement under subpart C, where the State provides the public notice, the State may issue a notice, the State may include its notice in the Federal agency's notice, or the State may require that the applicant provide the notice.

D. Remedial action/supplemental review notices and requests by States

- 930.45 These sections provide States with the opportunity to request that a Federal
930.65 agency take remedial action when the State believes that a Federal agency activity,
930.100 a federal license or permit activity, or a federal assistance activity is no longer
being undertaken in a manner consistent with the State's management program.
These sections are only used a few times each year.
- 930.46(b) These are new sections that provide States with the opportunity to seek a
930.66(b) supplemental consistency review, under the applicable subpart, when the State
930.101(b) believes that an activity previously reviewed by the State, but which has not yet

begun, will have coastal effects substantially different than originally described. OCRM expects that the use of this section will be limited, but will be useful when it is applicable.

- 930.85(b) This section is essentially the “remedial action” section for subpart E. The section
930.85(c) provides States with the opportunity to notify the Minerals Management Service and OCRM of previously approved OCS plans that the State believes is no longer consistent with the State’s management program. This section is rarely used.

E. State Federal Consistency listing and coordination

- 930.53(c)(1) This section is added to clarify that States need to consult with applicable Federal agencies when the State wants to add a federal license or permit to its list of activities subject to consistency review. The State-Federal consultation needs to occur prior to the State’s submittal to OCRM for approval. This section furthers the State-Federal consultation and coordination that is required when the State developed its federally approved program and provides the State and Federal agency with the opportunity to resolve any issues prior to submission to OCRM.
- 930.154 This section is added for the reasons noted above for listed and unlisted activities: provide applicants and Federal agencies with notice and predictability of the federal approvals which are subject to the consistency requirement and about which the State is most concerned. The listing is also required for this section so that the application of “interstate consistency” is carried out in a predicable, reasonable and efficient manner, and to ensure that neighboring States are provided the opportunity to comment on the potential application of consistency in their State by another State.
- 930.155(b) These sections are added for the reasons Stated above: so that the application of
930.155(d) “interstate consistency” is carried out in a predicable, reasonable and efficient manner, and to ensure that neighboring States are provided the opportunity to comment on the potential application of consistency in their State by another State. Because of the potential for conflict when one State is reviewing a federal activity in another State, specific notification of proposed activities and a reviewing State’s intent should help to alleviate potential problems and ensure that a consistency review is carried out in a timely and transparent manner. There have only been five or six interstate consistency reviews in the past 20 years thus, OCRM expects that this section will not be used often.

F. Mediation requests by States

- 930.112 This section implements a statutory provision that gives States the opportunity to request that the Secretary of Commerce mediate a serious dispute between the

State and a Federal agency. There have been numerous requests for mediation over the years, which only requires a letter from the State to the Secretary, but only one instance where the mediation was actually initiated. Usually, the Federal agencies opt for more informal negotiations through OCRM.

- 930.113(b) This section requires that the Federal and State agencies party to the mediation provide the public with an opportunity to review public information related to the mediation.

G. Appeals to the Secretary by applicants and State responses

- 930.125 This section implements the statutory provision allowing applicants for federal licenses or permits or federal assistance to appeal a State's objection to the Secretary of Commerce. If, on appeal, the Secretary overrides the State's objection, then the applicable Federal agency can issue its approval. These regulations provide a reasonable, efficient and predictable process to conduct the appeal and develop an administrative record for the Secretary's decision. In the past 20 years there have been 39 Secretarial decisions under this provision.

3. The information does not involve the use of automated, electronic, mechanical, or other forms of information technology.
4. In item number 2 above, we have described the efforts to avoid duplication of information collection which include the use of simply providing to NOAA copies of information provided to other Federal agencies.
5. Not Applicable.
6. Without these regulations implementing the consistency provision of the CZMA at 16 USC 1456, NOAA could not fulfill its obligations under that statute or its mission to assure consistency of federal activities, federal assistance and federal permit actions with State CMPs.
7. Not applicable.
8. A copy of the proposed rule and preamble is attached.
9. Not applicable.
10. The information provided to NOAA is a matter of public record except that information which is protected as proprietary under FOIA or applicable State law.
11. Not applicable.

12. Except for the following provisions of these proposed regulations, the information is being gathered for other purposes by other entities, municipal, State or Federal.

A. State objection and concurrence to consistency certifications or determinations.

For the last fiscal year for which OCRM has estimated numbers, 1994, States reviewed approximately: 500 Federal agency consistency determinations, 1,600 applications/certifications for federal licenses or permits, 100 outer continental shelf (OCS) oil and gas plan certifications, and 600 federal assistance applications. These reviews generate, therefore, approximately 2,800 concurrence or objection letters under these rules. Additional requirements may include the provision of copies of the State enforceable policies to applicants.

The number of hours necessary for States to provide consistency concurrence or objection letters varies widely because the nature of proposed activities affecting the coastal zone varies widely. For instance a concurrence or objection letter for an OCS Plan of Exploration may require 20-30 hours of review and preparation. Whereas a concurrence or objection letter for a project to install a dock at a private residence may require 1 hour or less. On average, NOAA estimates that State preparation of objection or concurrence letters will require 8 hours each. Therefore, NOAA estimates that the preparation of concurrence/objection letters for Federal agency activities and federal license or permit activities by the 33 coastal States will require, collectively, approximately 17,600 hours. NOAA is aware that the wage costs of the person reviewing and drafting these concurrence and objection letters is approximately the equivalent of a GS-12 costing approximately \$25 per hour. An hourly rate of \$25 multiplied by 17,600 hours equals \$440,000 annually for the collective 33 coastal states.

The concurrence or objection to applications for federal assistance are, generally, much easier than the previous two categories and NOAA estimates that 2 hours will be required to prepare each letter and therefore NOAA estimates that approximately 1,200 hours will be spent collectively by the 33 coastal States to provide concurrence or objection letters. NOAA is aware that the wage costs of the person reviewing and drafting concurrence and objection letters for financial assistance applications is approximately the equivalent of a GS-12 costing approximately \$25 per hour. When multiplied by 1,200 hours, the approximate annual cost for the 33 coastal states is \$30,000.

B. State requests for review of unlisted activities

NOAA receives approximately 3 requests to review unlisted activities per year from the participating State CMPs. These requests can vary in complexity depending on the nature of the activity the State wishes to review and the complexity of the anticipated effects on coastal resources. NOAA estimates the range would be similar to concurrence or objection letters from 2-6. On average, NOAA estimates that such letters will require approximately 4 hours and therefore among the 33 coastal States, collectively, 12 hours annually. NOAA is aware that the wage costs of the person reviewing and drafting requests for review of unlisted activities is

approximately the equivalent of a GS-12 costing approximately \$25 per hour. When multiplied by 12 hours, NOAA estimates that the annual cost to the 33 coastal states is \$300.

C. Public Notice requirements

The total number of required public notice of the State consistency review of applications for federal license or permits, federal assistance and federal activities is less than the total number of concurrence or objection letters in A. above because many of the notices for federal license or permit activities are included in the Federal agency's public notice and the States are not required to provide separate public notice for federal assistance activities. The public notice format is simple and straight forward and each State may use whatever format is used for all other public notices. Therefore, NOAA assumes that the preparation of such notices is highly standardized and requires minimal time in each State. NOAA estimates that each State will take 1 hour to prepare a public notice for projects subject to consistency review and that total number of hours spent annually by the 33 coastal States will be approximately 1,300 hours. NOAA is aware that the wage costs of the person reviewing and drafting are approximately equivalent to a GS-10 earning approximately \$19 per hour. Therefore NOAA concludes that the annual costs for the 33 coastal states of providing public notice of their consistency review is approximately \$ 247,000 annually.

D. Remedial Action and Supplemental Review

These provisions are rarely used and several are new. NOAA estimates that no more than 3 requests for remedial or supplemental will be requested of NOAA annually. It is difficult to estimate the number of hours involved by a State because the provisions are so rarely used. However, NOAA estimates 2-6 hours would be required to prepare such requests. A total annualized number could be approximately 12 hours. NOAA is aware that the wage costs of the person reviewing and drafting requests for supplemental review is approximately the equivalent of a GS-12 costing approximately \$25 per hour. Therefore NOAA concludes the labor costs among the collective 33 coastal states is approximately \$300 annually.

E. Listing Notice/coordination

States rarely, if ever, amend their existing lists. NOAA has only received 3 or 4 requests in the past 10 years. NOAA, however, estimates that such listing coordination would take approximately 1 hour per listing change. NOAA is aware that the wage costs of the person reviewing and drafting listing notices is approximately the equivalent of a GS-12 costing approximately \$25 per hour. Therefore, NOAA estimates that the annual cost of listing notices among the 33 coastal states is \$25.

F. Mediation

NOAA receives approximately 2 -3 requests for Secretarial mediation annually and of these, none

carries through the entire mediation process. The request for mediation does not require a significant effort and NOAA estimates that such requests may require as much as 2 hours of each requester. Therefore the time burden for mediation will be approximately 6 hours annually for the collective 33 coastal States. NOAA is aware that the wage costs of the person requesting mediation is approximately the equivalent of a GS-14 costing approximately \$36 per hour. Therefore NOAA estimates that the annual cost of requesting mediation is \$216 among the 33 coastal states.

G. Appeals to the Secretary of Commerce

Since the inception of the CZMA program in 1972, 39 consistency appeals have been filed with the Secretary of Commerce. On average, that is 1.6 consistency appeals or roughly two per year. Notices of appeal are fairly easy to prepare using limited information and require approximately 2 hours. Preparation of briefing materials can vary widely from the pro se appellant seeking to restore a hurricane damaged single family dwelling to an appellant with a complex project such as an outer continental shelf oil and gas project. In these circumstances, preparation of briefs and other materials can range from as few as 5 hours to 1500 hours for each of the two parties, the applicant and the State. An average appeal is one of moderate complexity for which NOAA estimates 200 hours of supplemental briefing work may be required.

Preparation of appeal documents varies widely and may range from the pro se homeowner to the hired and very sophisticated law firm. To estimate the costs, NOAA has reviewed the history of appeals and determined that about half are filed by homeowners or non-lawyers and half are filed by very sophisticated law firms on behalf of well capitalized businesses. Since NOAA estimated above, that 1.6 appeals are filed annually, for the purposes of determining the wage rate costs, NOAA assumes 2 appeal will be filed; one by a pro se homeowner and one by a sophisticated law firm on behalf of a business. NOAA estimates the wage rate of the pro se homeowner at the equivalent of a GS-14 or \$36 per hour. Therefore the costs of one appeal by a pro se homeowner are estimated to be \$ \$7200 annually for the entire program. NOAA estimates the cost of a sophisticated law firm is approximately \$200 per hour. Therefore, the appeal filed by such a law firm on behalf of a business or individual would be approximately \$40,000 annually. The total lump sum of both appeals would be approximately \$47,200 annually for the entire appeals program covering the 33 coastal states.

13. Costs to the Public. This section provides an estimate of total annual cost to the respondents or record-keepers (mostly the States). For purposes of this section, NOAA used the following estimated average costs for the number of annual submissions provided in response to number 12, above, resulting in the following estimated total average annual costs:

<u>Submission Type</u>	<u>Numbers</u>	<u>Cost/Each</u>	<u>Total Cost</u>
Federal agency/License or Permit and Assistance	2,700	\$1.00	\$2,700
OCS Plans	100	\$4.00	\$ 400
Public Notices	1,300	\$3.00	\$3,900
Unlisted Activity Requests	3	\$1.00	\$ 3
Remedial Action Requests	3	\$1.00	\$ 3
Mediation Requests	3	\$1.00	\$ 3
Secretarial Appeals	2	\$2.00	\$ 4

Total Estimated Annual Cost \$7,013

14. Costs to the Federal Government for the Submissions Identified Above. Since most of the submission requirements are for non-Federal entities, the costs to the Federal Government are few. The costs for the Federal Government are mostly to receive and respond to the unlisted activity requests, remedial action requests, mediation requests and Secretarial appeal requests. There are, generally, no costs associated with the Secretarial appeals since NOAA recovers its costs from the appellant, pursuant to 16 USC § 1456(i). For response costs for the other nine items, the cost is an estimate of a percentage (.05%) of an FTE for a GS-14, which provides an estimated annual cost of \$4,000.

15. Program change from previously required but newly cleared requirements.

16. Not applicable.

17. Not applicable.

18. Not applicable.

Section B. Collections of Information Employing Statistical Methods

This section is not applicable since statistical methods are not used to generate the information contained in this PRA clearance. Most of the information and submissions covered under this rule occur at the State level. In order to obtain more detailed numbers with which to use statistical analysis, NOAA would have to require that the States use a detailed reporting process and form--something that is not now required. This would place an additional substantial, and costly, paperwork burden on the States and NOAA.